

So Ordered.

Dated: March 10th, 2021



  
Whitman L. Holt  
Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WASHINGTON

In Re:	)	Case No. 20-01469-WLH11
	)	
MCCARY MEATS, LLC,	)	FINDINGS OF FACT AND CONCLUSIONS
	)	OF LAW REGARDING CONFIRMATION OF
Debtor.	)	DEBTOR'S CHAPTER 11 SUBCHAPTER V
	)	PLAN OF REORGANIZATION

THIS MATTER came on for hearing on March 9, 2021 for confirmation of the Debtor's Chapter 11 Subchapter V Plan of Reorganization (the "Plan") (ECF No. 80). John W. O'Leary appearing for the Debtor; Kevin O'Rourke appearing in his capacity as the Subchapter V Trustee; Michael Sperry appearing for Bell Veal, LLC; Susan Edison appearing for the State of Washington; Brian Donovan appearing for the Internal Revenue Service; and Gary Dyer appearing for the Unites State Trustee. The court having reviewed the Debtor's Plan and the Declaration of Deanna McCary, and having heard the arguments of counsel, makes the following

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Debtor filed this Chapter 11 Subchapter V proceeding on July 24, 2020.
2. The Debtor filed the Plan on December 30, 2020. The Plan contains a brief history of the business operations of the Debtor, a liquidation analysis, and projections with respect to the ability of the Debtor to make Plan payments. The Plan provides for the submission

FINDINGS OF FACT AND CONCLUSIONS OF  
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1 of future income to the supervision and control of the trustee as is necessary for the execution of  
2 the Plan. As such, the Plan complies with 11 U.S.C. § 1190.

3 3. The Debtor gave proper notice of the Plan and the Hearing on Confirmation of the  
4 Plan to creditors and parties in interest as required by FRBP 2002, LBR 2002-1, and LBR 3018-  
5 1, as well as other applicable provisions of the bankruptcy code and the Federal Rules of  
6 Bankruptcy Procedure by serving the Plan, List of Classifying Claims and Interest, and Ballot.  
7 Proof of service of such notice was filed with the court [ECF No. 93].

8 4. The hearing on confirmation after notice to creditors was held on March 9, 2021,  
9 by telephone conference hearing.

10 5. The following classes of claims are impaired under the plan:

11 Class 2: The Allowed Secured Claim of Bell Veal, LLC

12 Class 3: The Allowed General Unsecured Claims Against the Debtor

13 6. The Debtor properly filed a Report of Balloting [ECF No. 96]. The Report of  
14 Balloting indicates that Class 2 voted for the Plan and a Class 3 unsecured creditor voted for the  
15 Plan. There were no Class 3 unsecured creditors that voted against the Plan.

16 7. No ballots other than those identified in the Report of Balloting have been  
17 received by the Debtor.

18 8. Any payment made or to be made by the Debtor for services or for costs and  
19 expenses in or in connection with the case, or in connection with the Plan and incident to the  
20 case, has been approved by, or is subject to the approval of, the court as reasonable. Any and all  
21 payments for professional services, including authorization required by 11 U.S.C. §§ 327 and  
22 330, shall remain subject to bankruptcy court approval notwithstanding confirmation of the Plan.

23 9. Deanna McCary is the Debtor's sole member and officer. Her husband, Rick  
24 McCary, is the Debtor's Operations Manager. A disclosure to that effect as well as the Debtor's  
25

1 intent to pay insider compensation to the McCarys was filed July 30, 2020 [ECF No. 19]. The  
2 McCarys will continue to serve in their current capacity after confirmation of the Plan.

3 10. The Plan contains a Liquidation Analysis, which in a liquidation scenario,  
4 projects that neither the Class 1 Priority nor Class 3 General Unsecured Creditors would be paid.  
5 Only the Class 2 Secured Claim of Bell Veal, LLC would be paid. Whereas, pursuant to the Plan,  
6 the Debtor will pay all of its projected disposable income to its creditors over a period of 5 years.  
7 As such, the creditors who are impaired by the plan, and who did not vote for the plan, will  
8 receive not less than the amount they would receive in a liquidation, as required by 11 U.S.C.  
9 § 1129(a)(7).

10 11. No government regulatory commission or agency is required to approve the Plan  
11 or terms of the Plan.

12 12. The Plan satisfies the requirements of 11 U.S.C. § 1129(a)(7) in that each holder  
13 of a claim or interest has accepted the Plan or will receive or retain under the Plan property of a  
14 value, as of the effective date of the Plan, that is not less than the amount that such holder would  
15 receive or retain if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code on such  
16 date.

17 13. No 11 U.S.C. § 1111(b) elections have been made by any secured creditor.

18 14. The Class 1 Priority Claims are not impaired under the Plan. The impaired Class 2  
19 creditor, Bell Veal, LLC, has accepted the Plan. The impaired Class 3 General Unsecured Claims  
20 have also accepted the Plan. Accordingly, the Plan complies with 11 U.S.C. § 1129(a)(8) and all  
21 other applicable provisions of 11 U.S.C. § 1129(a). Therefore, the Plan is confirmed as a  
22 consensual plan pursuant to 11 U.S.C. § 1191(a).

23 15. Administrative priority claims described by 11 U.S.C. § 503(b) and 11 U.S.C.  
24 § 507(A)(2) are provided for as required by 11 U.S.C. § 1129(a)(9).

1           16.     The Plan has been accepted in writing by at least one non-insider class of  
2 impaired creditors as required by 11 U.S.C. § 1129(a)(10). The provisions of Chapter 11, Title  
3 11 of the United States Code have been complied with, and the Plan complies with all provisions  
4 of Title 11 of the United States Code as well as other applicable law.

5           17.     Confirmation of the Plan is not likely to be followed by liquidation, or the need  
6 for further financial reorganization of the Debtor.

7           18.     This was a voluntary Chapter 11 filing by the Debtor. As such, no fees are due to  
8 any involuntary creditors.

9           19.     The Debtor does not owe child support or domestic support obligations.

10          20.     The Debtor has no unpaid wage claims nor claims for commissions.

11          21.     The Debtor does not owe claims for non-payment to any employee benefit plan.

12          22.     The Debtor does not operate a grain storage facility.

13          23.     The Debtor does not owe a debt to fishermen.

14          24.     There are no claims made by any creditors for pre-petition deposits for purchase  
15 or lease of products for any creditor's personal family or household use.

16          25.     The Debtor does not owe the bankruptcy court any fees.

17          26.     The Debtor is not paying retiree benefits; therefore, no retiree benefits will be  
18 affected by the Plan.

19          27.     The Plan, with the amendments set forth in the Order Confirming Plan, should be  
20 confirmed. The provisions of Chapter 11 have been complied with, and the Plan has been  
21 proposed in good faith and not by any means forbidden by law.

22          28.     The requirements for confirmation of the Plan imposed by the Bankruptcy Code,  
23 Federal Rules of Bankruptcy Procedure and other applicable law, including the requirements of  
24 11 U.S.C. § 1129, have been met.

29. The effective date of the Plan will be the first business day following the date on which the confirmation becomes a final non-appealable order. The Debtor is authorized and directed to begin consummation of the Plan on the effective date, including the execution, ratification, or implementation of all loan and security documents authorized or contemplated by the Plan.

/// END OF ORDER ///

Presented by:

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Approved by:

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## FINDINGS OF FACT AND CONCLUSIONS OF LAW - 5

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